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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,032	08/16/2001	Hans-Jurgen Frase	V0-536	3687

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/856,032

Applicant(s)  
HANS-JURGEN FRASE ET AL.

Examiner  
YVONNE M. HORTON

Art Unit  
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 16, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Aug 16, 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10 & 11 6) ☐ Other:

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## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "sealing groove" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear if the claim is identifying the ceiling *only* as having individual elements or if the claim is identifying that the side walls, the floor and the ceiling are *each* individual elements. From the drawings and the specification, it appears that each one of the

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side walls, the floor and the ceiling each is individual elements. Until further clarification, the claims have been examined as each one of the side walls, the floor and the ceiling being individual elements. Also, is not clear if the outer layers or the inner layers or both withstand temperatures of several hundred degrees Centigrade.

Regarding claims 5 and 10, the phrase "can be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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7. Claims 1,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,455,801 to MERRITT in view US Patent #4,099,355 to STRUNK and JP 10002040.

MERRITT discloses the use of a secure room (10) including side walls (16) with a sealing door (26), a floor (20) enclosed by the side walls (16), corner elements (22), and a ceiling (18);

wherein each one of the side walls (16), the floor (20) and the ceiling (18) is an individual

element consisting of outer layers (36) and at least two inner layers (30,32,34) assembled by

connecting elements (40,41,44) to form an module. MERRITT discloses the basic claimed secure room except for the use of a fire-protective sealing member. STRUNK teaches that is

known in the art to provide a fire-protective sealing member (8) between adjacent panel members

(2). Expanding sealing members for fire-protection are old and very well known in the art. JP 10002040 teaches the use of an expanding sealing member. It would have been obvious to one

having ordinary skill in the art at the time the invention was made to provide the secure room

of MERRITT with the sealing members of STRUNK and JP 10002040 in order to more securely joined adjacent member while also protecting the room from fire inhibiting an interior thereof.

Regarding claims 8 and 9, the secure room of MERRITT further includes a sealing groove (colored red) into which the sealing elements of STRUNK and JP 10002040 would be placed, and the individual elements (16,18,20,22) includes connecting tongues (T), see the marked attachment.

*D Merritt  
teaches use of  
a hydrophobic  
binder for members  
However, does not  
disclose fireproofing  
sealing members.*

*Col 1 like 53-55  
The layers 36 is stainless steel (20,32,34)  
are formed plastic  
well as, expand  
neat neat & plywood  
JP teaches he  
well as &  
neat neat  
are inherently  
known  
exhibit fireproof  
qualities.*

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8. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,455,801 to MERRITT, as modified by US Patent #4,099,355 to STRUNK and JP 10002040 as applied to claim 1 above, and further in view of US Patent #6,293,069 to MONDA et al. As detailed above, and in reference to claims 2 and 4, MERRITT discloses a secure room (10) and further details the use of a sealing groove (colored red) into which the sealing elements of STRUNK and JP 10002040 would be placed, and the individual elements (16,18,20,22) includes connecting tongues (T), see the marked attachment. MERRITT, as modified by STRUNK and JP 10002040, discloses the basic claimed secure room except for the use of a sealing tape. MERRITT discloses the use of a sealing strip (40,46); however he is not explicit as to whether his strip is tape or not. MONDA et al. teaches the use of a sealing tape (16) and sealing material (22,23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the secure room of MERRITT, as modified by STRUNK and JP 10002040, with the sealing tape and sealing material of MONDA et al. in order to manufacture a secure room that is less costly and that will also prevent the spread of fire therethrough. The inclusion of MONDA et al. would be less costly because tapes are less expensive than the use of metal or plastic sealing strips.

***Allowable Subject Matter***

9. Claims 5-6 and 10-12 appear to be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the

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limitations of the base claim and any intervening claims. However, allowance is held in abeyance until receipt of claims in conformance with 35 USC 112.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

March 10, 2003

A handwritten signature in black ink, appearing to be "YMH", is written over the date "March 10, 2003". The signature is enclosed within a circular scribble.